

AMENDED IN SENATE MARCH 22, 2006

AMENDED IN SENATE MARCH 9, 2006

AMENDED IN SENATE JANUARY 4, 2006

AMENDED IN SENATE JULY 5, 2005

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN SENATE JUNE 13, 2005

Senate Constitutional Amendment

No. 3

Introduced by Senators Lowenthal and Ashburn

(Principal coauthor: Senator Simitian)

(Coauthors: Senators Alquist, Kehoe, and Soto)

(Coauthors: Assembly Members *Canciamilla*, Leno, Nation, and Wolk)

December 6, 2004

Senate Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing and adding Article XXI thereof, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as amended, Lowenthal. Elections: redistricting.

Existing provisions of the California Constitution require that each member of the Senate, Assembly, Congress, and the State Board of Equalization be elected from a single-member district.

This measure would require that each of the 40 Senate districts be divided into 2 Assembly districts.

Existing provisions of the California Constitution require the Legislature, in the year following the year in which the federal census is taken at the beginning of each decade, to adjust the boundary lines of the state Senate, Assembly, congressional, and State Board of Equalization districts in accordance with specified standards.

This measure would delete this provision, and would instead create a procedure for the appointment of an independent redistricting commission, composed of ~~5~~ *11* members, that would be charged with establishing Senate, Assembly, congressional, and State Board of Equalization districts of equal population in a grid-like pattern across the state, adjusted as necessary to accommodate various goals, as specified.

This measure would provide that certain records of the redistricting commission are public records.

This measure would grant the California Supreme Court original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the commission, and would authorize an affected elector to file a petition for a writ of mandate or prohibition within 45 days after the commission certified the plan to the Secretary of State. The California Supreme Court would be required to act expeditiously on the petition. If the plan is held to be unconstitutional, this measure would require the court to provide relief as it deems appropriate.

This measure would, among other things, require the establishment of a pool of 25 candidates for appointment to the commission, as nominated by a panel of 10 retired judges of the Court of Appeal, would require the selection and appointment ~~from this pool of 5~~ *the 11* commission members *from this pool* according to a specified procedure, and would provide for the filling vacancies on the commission.

This measure would require the Department of Finance to submit to the Legislature a recommendation for estimated redistricting expenses, to be appropriated by the Legislature by majority vote. It would authorize the commission to contract and to hire staff and consultants, including legal representation, for purposes of this measure. It would provide that commissioners are eligible for reimbursement of expenses pursuant to law.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2005–06 Regular
3 Session commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Article XXI thereof is repealed.

8 Second—That Article XXI is added thereto, to read:

10 ARTICLE XXI

11 Reapportionment of Senate, Assembly, Congressional, and
12 State Board of Equalization Districts

13
14 SECTION 1. (a) Each member of the Senate, Assembly,
15 Congress, and the State Board of Equalization shall be elected
16 from a single-member district. The territory of each Senate
17 district established pursuant to this section shall be divided into
18 two Assembly districts.

19 (b) By February 28 of each year ending in the number one, the
20 Independent Redistricting Commission shall be established to
21 provide for the redistricting of Senate, Assembly, congressional,
22 and State Board of Equalization districts. As used in this article,
23 “commission” means the Independent Redistricting Commission.

24 (c) The commission shall consist of ~~five~~ 11 members and all
25 of the following shall apply:

26 (1) No more than ~~two~~ four members of the commission may
27 be members of the same political party.

28 (2) Of the ~~four~~ eight commission members appointed pursuant
29 to subdivisions (b) and (c) of Section 2, no two or more may
30 reside in the same county.

31 (3) Each commission member shall be a registered California
32 voter who has been continuously registered with the same
33 political party, or has been registered as unaffiliated with a
34 political party, for three or more years immediately preceding
35 appointment.

36 (4) Each commission member shall commit to applying this
37 article in an honest, independent, and impartial fashion and to
38 upholding public confidence in the integrity of the redistricting
39 process.

(d) (1) Within the three years immediately preceding appointment, a commission member may not have done either of the following:

(A) Been appointed to, elected to, or have been a candidate for any other public office.

(B) Served as an officer of a political party, a registered paid lobbyist, or an officer of a candidate's campaign committee.

(2) Legislative and congressional staff and consultants, persons under a contract with the Legislature, and any person with a financial or family relationship with the Governor, a Member of the Legislature, a Member of Congress, or a member of the State Board of Equalization, are not eligible to serve as members of the commission.

(3) A member of the commission shall be ineligible, during his or her term of office, and for three years thereafter, to hold public office in this State or to register as a paid lobbyist.

SEC. 2. (a) (1) A panel of 10 retired judges of the Court of Appeal, appointed by the Judicial Council, shall nominate candidates for appointment to the commission.

(2) By January 8 of each year ending in the number one, the panel shall establish a pool of qualified persons who are willing to serve on the commission.

(3) The pool of candidates shall consist of 25 nominees, with 10 nominees from each of the two largest political parties in California based on party registration, and 5 who are not registered with either of the two largest political parties in this State.

(4) The panel shall make every effort to ensure that the pool of candidates is representative of both genders and this State's racial, ethnic, and cultural diversity.

(b) (1) No later than January 31 of each year ending in the number one, the Speaker of the Assembly shall make ~~one~~ *two appointments* to the commission from the pool of nominees, followed by ~~one appointment~~ *two appointments* from the pool made in turn by each of the following:

(A) The minority floor leader of the Assembly.

(B) The President pro Tempore of the Senate.

(C) The minority floor leader of the Senate.

(2) Each official shall have a seven-day period in which to make an appointment. If the appointment by the Speaker of the

1 Assembly is not made by January 31, or any of the successive
2 appointments is not made within a period of seven days
3 following the deadline for the preceding appointment, that
4 appointment is forfeited and shall be filled pursuant to
5 subdivision (d). In the event that there are two or more minority
6 parties within the Assembly or the Senate, the leader of the
7 largest minority party by statewide party registration shall make
8 the appointment.

9 (c) Any vacancy in the ~~four~~ *eight* commission positions
10 described in subdivision (b) that remains as of March 1 of a year
11 ending in the number one shall be filled from the pool of
12 nominees by the panel of retired judges described in subdivision
13 (a). The panel shall strive for political balance and fairness in
14 making that appointment.

15 (d) At a meeting called by the Secretary of State, the ~~four~~ *eight*
16 commission members appointed pursuant to subdivisions (b) and
17 (c) shall select by majority vote from the nomination pool ~~a fifth~~
18 ~~member who is three additional members who are~~ not registered
19 with any party already represented on the commission. If the ~~four~~
20 *eight* members fail to appoint ~~a fifth member~~ *one or more of the*
21 *three additional members* within 15 days of that meeting, the
22 panel of retired judges described in subdivision (a) shall appoint
23 from the nomination pool ~~a fifth member who is, for those~~
24 ~~positions remaining unfilled, the additional members who are~~ not
25 registered with any party already represented on the commission.
26 ~~The fifth member, as~~ *One of the three additional members*
27 *appointed pursuant to this subdivision, as selected by majority*
28 *vote of the eight members appointed pursuant to subdivision (b),*
29 shall serve as the chair of the commission.

30 (e) The ~~five~~ *11* members of the commission shall select by
31 majority vote one of their members to serve as the vice chair.

32 (f) The term of office of each member of the commission
33 expires upon the appointment of the first member of the
34 succeeding commission.

35 SEC. 3. (a) After having been served written notice and
36 provided with an opportunity for a response, a member of the
37 commission may be removed by the Governor, with the
38 concurrence of two-thirds of the Senate, for substantial neglect of
39 duty, gross misconduct in office, or inability to discharge the
40 duties of office.

1 (b) (1) If a member of the commission vacates his or her
2 office or is removed pursuant to subdivision (a) prior to the
3 completion of his or her term for any reason, the panel of retired
4 judges described in Section 2 shall nominate a pool of three
5 candidates within the first 30 days after the vacancy occurs.

6 (2) The nominees shall be of the same political party
7 membership, or nonpartisan status, as the case may be, held by
8 the vacating member at the time of his or her appointment. The
9 appointment of the successor member shall be made from the
10 pool of nominees by the person, persons, or entity that, pursuant
11 to subdivision (b), (c), or (d) of Section 2, appointed the member
12 vacating the office, except that a successor appointed pursuant to
13 subdivision (d) of Section 2 under these circumstances is not
14 thereby made the chair of the commission and, in the event of
15 that appointment, a new chair shall be selected by a majority vote
16 of the remaining members.

17 (3) If the appointment of a replacement member is not made
18 within 14 days following the presentation of the nominees, the
19 panel described in Section 2 shall make the appointment, striving
20 for political balance and fairness. The newly appointed member
21 shall serve out the remainder of the original term of the vacating
22 member.

23 SEC. 4. (a) The activities of the commission are subject to all
24 of the following:

25 (1) ~~Three~~ Six members of the commission, one of whom may
26 be the chair or vice chair, shall constitute a quorum.

27 (2) ~~Three~~ Six or more affirmative votes shall be required for
28 any official action.

29 (3) The commission shall comply with the Bagley-Keene
30 Open Meeting Act (Article 9 (commencing with Section 11120)
31 of Division 3 of Title 2 of the Government Code), or its
32 successor. The commission shall provide not less than 14 days'
33 public notice for each meeting.

34 (4) The records of the commission pertaining to redistricting,
35 and all data considered by the commission, are public records,
36 open to inspection by members of the public upon request, except
37 that the commission may withhold from public inspection
38 preliminary drafts, notes, and communications between
39 commission members.

(5) Any written or verbal communication with any commission member outside of a public hearing, other than by staff or by legal counsel, is prohibited as to any matter on which the commission is required to meet pursuant to paragraph (3). This paragraph does not prohibit any communication between commission members that is otherwise permitted by the Bagley-Keene Open Meeting Act or its successor.

(b) The duties of the commission include all of the following:

(1) To establish Senate, Assembly, congressional, and State Board of Equalization districts based on a mapping process for each district that shall consist initially of the creation of districts of equal population in a gridlike pattern across the State.

(2) To adjust the grid established pursuant to paragraph (1) as necessary to accommodate each of the following goals, prioritized according to the following order:

(A) Districts shall comply with the United States ~~Constitution and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following)~~. *Constitution*.

~~(B) Senate,~~

Senate, Assembly, congressional, and State Board of Equalization districts shall each have equal population with other districts for the same office, to the extent practicable.

(B) Districts shall comply with the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 and following).

(C) Districts shall be geographically contiguous to the extent practicable.

(D) District boundaries shall respect communities of interest to the extent practicable.

(E) To the extent practicable, district lines shall use visible geographic features, city and county boundaries, and undivided census tracts.

(F) Districts shall be geographically compact to the extent practicable.

(G) To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals listed in this paragraph.

(3) Party registration and voting history data shall be excluded from the initial phase of the mapping process, but may be used to test maps for compliance with this subdivision. The places of

1 residence of incumbents or candidates may not be identified or
2 considered for purposes of this article.

3 (4) The commission shall display a draft map of Senate,
4 Assembly, congressional, and State Board of Equalization
5 districts to the public for comment, in a manner designed to
6 achieve the widest public dissemination reasonably possible, and
7 public comment shall be taken for at least 30 days from the date
8 of public display. Either the Senate or the Assembly, or both,
9 may act within this period to make recommendations to the
10 commission by majority or by minority report, which
11 recommendations shall be considered by the commission.

12 (5) The commission shall then establish final boundaries for
13 Senate, Assembly, congressional, and State Board of
14 Equalization districts, and shall certify those districts to the
15 Secretary of State.

16 SEC. 5. (a) In each year ending in the number nine, the
17 Department of Finance or its successor shall submit to the
18 Legislature a recommendation for an appropriation adequate to
19 meet the estimated expenses of the subsequent redistricting
20 process occurring pursuant to this article, and shall make
21 adequate office space available for the operation of the
22 commission. Notwithstanding Section 12 of Article IV, the
23 Legislature shall make the necessary appropriation by bill passed
24 by rollcall vote entered in the journal, a majority of the
25 membership of each house concurring.

26 (b) The commission, with fiscal oversight from the
27 Department of Finance or its successor, shall have procurement
28 and contracting authority and may hire staff and consultants,
29 exempt from the civil service, for the purposes of this article,
30 including legal representation.

31 (c) The commission has standing in legal actions regarding a
32 redistricting plan and to establish whether funds or other
33 resources provided for the operation of the commission are
34 adequate. The commission has sole authority to determine
35 whether the Attorney General or legal counsel hired or selected
36 by the commission shall represent the people of California in the
37 legal defense of a redistricting plan.

38 (d) (1) The California Supreme Court has original and
39 exclusive jurisdiction in all proceedings in which a redistricting
40 plan adopted by the commission is challenged.

1 (2) To challenge a redistricting plan, any affected elector may
2 file a petition for a writ of mandate or writ of prohibition, within
3 45 days after the commission has certified the plan to the
4 Secretary of State, to bar the Secretary of State from
5 implementing the plan on the grounds that the filed plan violates
6 this Constitution, the United States Constitution, or any federal
7 statute.

8 (3) The court shall act expeditiously on the petition. If the
9 court determines that a redistricting plan adopted by the
10 commission violates this Constitution, the United States
11 Constitution, or any federal statute, the court shall fashion the
12 relief that it deems appropriate.

13 SEC. 6. (a) Members of the commission are eligible for
14 reimbursement of personal expenses incurred in connection with
15 the duties performed for the commission pursuant to law, and a
16 member's residence is deemed to be the member's post of duty
17 for purposes of reimbursement of expenses.

18 (b) The commission may not meet or incur expenses after the
19 redistricting plan becomes final pursuant to paragraph (5) of
20 subdivision (b) of Section 4, except with respect to any pending
21 litigation or government approval concerning the plan, to revise
22 districts if required by court order, or if the number of Senate,
23 Assembly, congressional, or State Board of Equalization districts
24 is changed.

25 (c) For purposes of this article, "day" means a calendar day,
26 except that if the final day of a period within which an act is to be
27 performed is a Saturday, Sunday, or holiday, the period is
28 extended to the next day that is not a Saturday, Sunday, or
29 holiday.

30 (d) This article is self-executing.